

February 27, 2015

Michael B. DeSanctis
Tel 202 637-6323
Fax 202 661-4828
mdesanctis@jenner.com

VIA ECFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Presentation Regarding CG Dkt. Nos. 03-123, 13-24

Dear Ms. Dortch:

On February 25, 2015, on behalf of CaptionCall, LLC ("CaptionCall"), Jason Dunn and Bruce Peterson of CaptionCall, Michael Maddix of Sorenson Communications, Inc. ("Sorenson"), and Doug Wilson and I of Jenner & Block, LLP met with Gregory Hlibok, Robert Aldrich, Elliot Greenwald, and Caitlin Vogus of the Federal Communication Commission's Consumer and Governmental Affairs Bureau. The meeting concerned three open matters on the Telecommunications Relay Service ("TRS") docket: (1) CaptionCall's application to provide internet-based TRS services¹; and (2) CaptionCall's request for a declaratory ruling that Ultratec Inc. ("Ultratec") is required to offer a license to legitimate TRS providers seeking to offer Internet Protocol Captioned Telephone Service ("IP CTS") at reasonable rates²; and (3) Sorenson's application to provide internet-based TRS services.³

CaptionCall first corrected the record regarding misrepresentations made by Ultratec in its December 23, 2014 letter⁴ and its February 19, 2015 meeting with the Commission's staff.⁵ In the meeting, CaptionCall described its industry-leading captioning standards and training regimen, which is in full compliance with

¹ *Internet-Based TRS Certification Application of CaptionCall, LLC, Telecommunications Relay Service and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Dkt. No. 03-123 (filed on Dec. 2, 2014).

² *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Misuse of Internet Protocol (IP) Captioned Telephone Service, Petition for Declaratory Ruling of Sorenson Communications, Inc. and CaptionCall, LLC to Ensure Competition in Internet Protocol Captioned Telephone Service*, CG Dkt. Nos. 03-123, 13-24 (filed on Nov. 19, 2014).

³ *Internet-Based TRS Certification Application of Sorenson Communications, Inc., Structure and Practices of the Video Relay Service Program*, CG Dkt. No. 10-51 (filed Dec. 2, 2011).

⁴ *Ex Parte Letter from Phil Marchesiello to Marlene H. Dortch and Kris Anne Monteith*, CG Dkt. No. 03-123 (filed Dec. 23, 2014) ("Ultratec Dec. 23 Letter").

⁵ *Ex Parte Letter from Phil Marchesiello to Marlene H. Dortch*, CG Dkt. No. 03-123 (filed Feb. 23, 2015) ("Ultratec Feb. 23 Letter").

FCC requirements including the verbatim relay standard.⁶ We also noted our concerns with Ultratec's own captioning practices that may likely create unnecessary minutes that are billed improperly to the TRS Fund. CaptionCall recommended that the Commission undertake its own controlled, simultaneous testing of all providers of IP CTS relay services to compare for itself the accuracy and latency of each providers' captioning as well as the average length of IP CTS calls among different providers. CaptionCall expressed its confidence that such tests will show CaptionCall's superiority in both speed and accuracy.

CaptionCall's Captioning Standards, Training, and Compliance with FCC Rules

Jason Dunn, CaptionCall's Vice President for CaptionCall Centers, is responsible for the training and performance of CaptionCall's communication assistants ("CAs") and their compliance with applicable Commission rules. At the meeting, he explained that each CA is tested weekly and must meet combined speed and accuracy that far surpass the Commission's requirements – which only require a typing speed of sixty words per minute⁷ – as well as the competition. This relentless pursuit of quality allows CaptionCall to provide IP CTS relay service with excellent accuracy and minimal latency. See CaptionCall Reply Letter at 3-4 (describing CaptionCall's captioning standards and training in fulsome detail).

Importantly, Mr. Dunn explained that CaptionCall's training and policies expressly prohibit summarizing call content or intentionally skipping words. Thus, contrary to Ultratec's knowingly false accusations, CaptionCall is in full compliance with the Commission's verbatim captioning requirement. *Id.* at 2-4. Mr. Dunn further explained to staff that when a CA misses more than a word or two of conversational content because it is inaudible for any reason – including because of a bad connection, loud noise in the background, or any reason that a CA might miss part of a telephone conversation – CaptionCall CAs are trained to alert the IP CTS user of this fact through a system of "QuickWords" that convey that some call content may not have been captioned and why. See Ultratec Dec. 23 Letter, Ex. A at 2 (identifying the QuickWord categories that convey to the CaptionCall user why captioning is not possible at a given moment).

Commission staff asked CaptionCall whether it prioritizes accuracy or latency. CaptionCall rejected that dichotomy as a false choice, noting that it trains its CAs to provide industry leading standards for *both* accurate and timely captioning. Unlike Ultratec, CaptionCall does not buffer the speed of incoming conversation. CaptionCall believes strongly that functionally equivalent captioning must provide high service on both metrics and that its consumers demand it.

⁶ See Letter from Michael B. DeSanctis to Marlene H. Dortch and Kris Anne Monteith, CG Dkt. No. 03-123, 2-6 (filed Jan. 30, 2015) (detailing CaptionCall's captioning standards, training, and complete compliance with FCC rules) ("CaptionCall Reply Letter").

⁷ 47 C.F.R. § 64.604(a)(iii).

Ultratec's Latency Issues and the Need for Testing

At the meeting, CaptionCall reiterated to the staff its concerns that Ultratec's policy of buffering incoming conversations so as to ease the burden of verbatim captioning for its under-qualified CAs is itself a violation of the Commission's requirements that relay services be in real time. See CaptionCall Reply Letter at 7. Moreover, it is apparent that Ultratec's practice of intentionally slowing the speed of the incoming conversation unlawfully increases the length of IP CTS calls captioned by Ultratec's service, and thus unlawfully increases the compensation that its resellers are reaping from the TRS Fund. CaptionCall suggested specific measures for the Commission to take to confirm this.

Ultratec's Refusal to License Its Patents on Reasonable Terms Requires a Declaratory Ruling

Finally, we discussed with staff that, despite its misrepresentation to the contrary, Ultratec has not offered CaptionCall a license to use its allegedly patented technology for CaptionCall's provision of IP CTS at a reasonable rate. See Ultratec Feb. 23 Letter at 2. Instead, Ultratec has merely offered to CaptionCall the opportunity to serve as yet another reseller of Ultratec's technology as Hamilton and Sprint currently do. Not only is this not a license of its technology, Ultratec's offer would eliminate a substantial portion of the competition it faces in the provision of IP CTS relay services to the hard of hearing. As discussed with staff, the competition CaptionCall brought to this area has dramatically improved the quality of both the service and the hardware that IP CTS users enjoy today. Far from complying with its licensing obligations,⁸ Ultratec's refusal to license its technology violates the Commission's unambiguous 2007 IP CTS Order and requires the Commission's immediate intervention. The staff requested that CaptionCall provide them with documentation of what exactly Ultratec has offered to CaptionCall. CaptionCall, of course, plans to comply with that request.

CaptionCall's Application for Certification

At the end of the meeting, Mr. Maddix inquired about the status of CaptionCall's and Sorenson's applications for certification. Staff recognized that the applications were pending and noted that the applications were among the staff's many priorities.

CaptionCall appreciates the opportunity to address its concerns with the Commission's staff.

Sincerely,



Michael B. DeSanctis
Counsel for CaptionCall, LLC

⁸ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Declaratory Ruling, 22 FCC Rcd 379 (2007) ("2007 IP CTS Order").

Ms. Marlene H. Dortch

February 27, 2015

Page 4

cc (via e-mail): Greg Hlibok
Robert Aldrich
Eliot Greenwald
Caitlin Vogus